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01/13/03

02:19 PM

To: CWAwaters@EPA  
cc:  
Subject: Docket OW-2002-0050

I am the owner of a wetlands consulting firm in Summit County, Colorado. My focus is wetlands located in montane and sub-alpine life zones (7,000-11,000). I am gravely concerned with your proposed ruling eliminating the regulation of intrastate and non-navigable waters. Montane and sub-alpine wetlands include (but are not limited to) kettle ponds and spring-fed wetlands that superficially show no connection to the down gradient creek or river. Under your proposed guidance - these wetlands are G-O-N-E. These wetland types are HEADWATERS and MOST IMPORTANT to our NATION'S waters. To deny that they are connected is simply that-- denial. YES - these wetland types are connected to the headwater tributaries and creeks of navigable waters-- just dig a few inches underground- any non-scientist could see this if they stepped out of their offices to observe. And of course you must know that any damage you do to headwaters exponentially affects downstream users. Further, destruction or filling of these springs or nature-made (unlined) ponds affect our water supply. I would like for you to present that to the parched residents or ski-areas of my County during the expected 2003 drought. (In fact, bring truckloads of water with you and the reception might be better.)

We have given field trips to local planners who make decisions about homes and land-uses in our high altitude basins. Having shown them the kettle ponds, the springs, the undulations of uplands/wetlands in our spruce-fir forests and the plant diversity they present in the harsh environment, the planners were astonished to learn that our federal "scientists" deemed these "disconnected" from our creeks and rivers - simply because there is no connection seen on the surface. I could only shrug to the planners in response. What blindfolds you must wear or probably more accurately, what inexperience you have in our mountain forests.

It is an abomination that our "Colorado- is-on-fire" governor says that our wetlands will be sufficiently protected by Colorado laws. In my 14 years of conducting wetlands work in Colorado, I have yet to see a state regulator EVER on a project site - BEFORE, DURING, OR AFTER. Further, there is NO state permit requirements for wetland projects - the state has NO water quality certification review for each Nationwide Permit issued. What is there to enforce and what the heck would they choose to enforce if they NEVER have in the past?

Please, again - do not listen to the antics of our governor nor the state regulators who never leave their offices. They know nothing of what they speak. I am in the wetlands every day from April - November. I see it, live it, and am part of the elimination EVERY DAY (No-net loss - HA!).

You propose that the jurisdiction of the CWA will not include non-navigable waters. Why is a drop of water more qualified for protection when held in a navigable surface water than in a spring-fed montane wetland that has a subsurface connection to a surface water regardless if its 100 feet or 500 feet? I am trying to figure out what you are trying to protect. The Clean Water Act is to keep ALL of our nation's water clean, why are you characterizing, segregating, and giving only special protection to specific waters? It makes perfect political sense but would you please put on your scientific hat for a moment and think about how ludicrous you come across?

Finally, in the CWA Title I Section 101 paragraph (g) it states:

"It is the policy of Congress that the authority of each State to allocate

quantities of water within its jurisdiction shall not be superseded, abrogated

or otherwise impaired by this Act."

By this, and your "enlightened" interpretation of the jurisdiction of the Clean Water Act, it is the EPA's responsibility to demonstrate that by changing the jurisdiction of the Act, and allowing for the filling of "isolated" springs and other underground reservoirs of our drought-stricken state and all other western states - you are not impairing our water supply. It's ironic that one agency is willing to fill our sources of water and another willing to clear-cut forests to give us more. I sometimes wonder just how this planet survived without us.

The scientists baffle me with their recommendations (at least those that you listen to). Your attorneys need to take off their well-worn penny-loafers and spend a day with me in the "icky" swamps of the Rockies - and PROVE to me that these spring-fed wetlands and "isolated" wetlands are NOT connected to regulated waters. I am available any time any day for a field trip. With that invitation, I find your proposal as presented - blatantly lazy science shrouded by politics and should not be implemented.

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